

Application Number 10/755,143

Amendment in response to final Office Action mailed October 19, 2007

REMARKS

This Amendment is responsive to the Final Office Action dated October 19, 2007. Applicant has amended claim 1 to include the limitations of claim 2, and has amended withdrawn claim 21 to be in independent form. Claims 1-12, 21 and 22 remain pending, although claims 21 and 22 have been withdrawn *by the Examiner*. Applicant maintains that the withdrawal of claims 21 and 22 was improper. In parallel with this response, Applicant is filing a petition to the Director under 37 CFR §1.181 to address claims 21 and 22.

No New Issues

The present Amendment raises no new issues. Claims 1 has been amended to include the limitations formerly presented in claim 2. Claim 21 has been amended to be in independent form. Entry of these amendments is respectfully requested.

Claims 21 and 22

The Examiner improperly withdrew claims 21 and 22 from the present application, as being directed to a non-elected invention. To date, the Examiner improperly refused to examine claims 21 and 22, and failed to address Applicant's arguments as to why claims 21 and 22 are not a non-elected species relative to claim 1. The finality of the current Office Action is improper for this reason. Applicant requests an explanation from the Examiner, or withdrawal of the finality of the current office action and examination of claims 21 and 22.

In failing to address Applicant's arguments regarding the fact that claims 21 and 22 are an elected species, the Examiner has simply stated that:

there are 3 different species (not a common genus) as specified in the Office Action mailed 8/11/06. It was also specified that if claims are added after the election, applicant must indicate which are readable upon the elected species, in the present case claims 21-22 are not readable on the elected species.

This statement fails to address Applicant's arguments on the issue. Applicant's argument has been presented several times, but has still not been addressed by the Examiner in any substantive fashion. Rather, the Examiner is simply advancing an unsupported conclusion that claims 21-22 are a species relative to the genus of claim 1 without explaining how or why.

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Applicant has explained why claims 21 and 22 are readable on Applicant's elected species. The Examiner, not Applicant, has failed to meet the burden of proof in responding to Applicant's arguments (which have been presented several times) that claims 21 and 22 are directed to an elected species. Applicant's arguments, as well as the procedural posture of claims 21 and 22 are addressed again below.

In the Office Action mailed on 8/11/2006, the Examiner advanced an Election of Species Requirement, indicating that FIGS. 2, 6 and 8 illustrate patentably distinct species. In response to the Election of Species Requirement, Applicant explained that FIG. 2 (claim 1) is generic relative to FIG. 6 (former claim 13) and FIG. 8 (former claim 18). Applicant agreed with the Examiner that FIG. 6 (former claim 13) and FIG. 8 (former claim 18) are species of a common genus shown in FIG. 2 (claim 1). On this basis, Applicant elected the genus shown in FIG. 2 (claim 1), and further elected the species shown in FIG. 6 (claim 13) over the species shown in FIG. 8 (claim 18).

In response to Applicant's election and argument that FIG. 2 (claim 1) is generic relative to FIG. 6 (former claim 13) and FIG. 8 (former claim 18), the Examiner withdrew both of former claims 13 and 18 (by withdrawing claims 13-20 from consideration). At that time, the Examiner failed to address Applicant's arguments, or specifically explain why the Examiner thinks that FIG. 2 (claim 1), FIG. 6 (former claim 13), and FIG. 8 (former claim 18) show three different species. Applicant's position has consistently been that, contrary to the Examiner's statements, FIG. 2 (claim 1) is generic relative to FIG. 6 (former claim 13) and FIG. 8 (former claim 18). Applicant is still waiting for an explanation of why the Examiner thinks that FIG. 2 (claim 1), FIG. 6 (former claim 13), and FIG. 8 (former claim 18) show three different species.

After the Examiner withdrew claims 13 and 18, Applicant immediately added claims 21 and 22 to the application and explained that claim 21 is similar to former claim 13. At this point, Applicant again explained that FIG. 2 (claim 1) is generic relative to FIG. 6 (former claim 13 and present claim 21) and FIG. 8 (former claim 18).

Now, in response to Applicant's argument on this issue, the Examiner is simply referring back to the Election of Species Requirement mailed on 8/11/2006. However, Applicant traversed the Election of Species Requirement mailed on 8/11/2006, and the Examiner has still

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failed to address Applicant's arguments as to why the Election of Species Requirement mailed on 8/11/2006 was improper in the first place.

Specifically, the Examiner has still failed to explain why the Examiner thinks that FIG. 2 (claim 1), FIG. 6 (former claim 13 and present claim 21), and FIG. 8 (former claim 18) show three different species. Again, Applicant's position has consistently been that, contrary to the Examiner's statements, FIG. 2 (claim 1) is generic relative to FIG. 6 (former claim 13 and present claim 21) and FIG. 8 (former claim 18). Applicant is still waiting for an explanation of why the Examiner thinks that FIG. 2 (claim 1), FIG. 6 (former claim 13 and present claim 21), and FIG. 8 (former claim 18) show three different species.

Applicant again notes that while the presence of a generic claim is not, by itself, a basis for obviating an election of species, the fact that claim 1 is generic relative to claim 21 precludes claims 1 and 21 from being different species of a common genus. Therefore, any need to elect between claim 1 and 21 (or claim 1 and former claim 13) was improper at the time of the Election Requirement and remains improper in the current case. The genus is defined by claim 1, and claim 21 defines a species within this common genus of claim 1. Therefore, claims 1 and 21 should be examined together, consistent with Applicant's election of the genus of FIG. 2 and the species of FIG. 6.

Again, the Examiner's previous statement that the presence of a generic claim is not a basis for obviating an election of species applies only with respect to election between the species formerly defined by claims 13 and 18. In this case, the presence of generic claim 1 is not a basis for obviating an election of species between claims 13 and 18. However, Applicant elected claim 13 over claim 18. The fact that claim 1 is generic with respect to claims 13 and 18 precludes the Examiner from withdrawing examination of the subject matter of both claims 13 and 18. The Examiner should have examined claim 13 in the first Office Action, and should have examined claims 21 and 22 in the current Office Action.

With respect to the Examiner's previous statement that Applicant's disclosure indicates that the structure of FIG. 2 is considered a distinct species, Applicant disagrees, and submits that the Examiner has provided no basis for this assertion. Again, claim 1 defines a genus, and claims 13 and 18 were species of the common genus of claim 1. Applicant is entitled to examination of the genus defined in claim 1 and at least one of the species of that genus, e.g., the species

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formerly defined in claim 13 and currently recited in claim 21. Nothing in Applicant's disclosure states that the structure of FIG. 2 is considered a distinct species relative to the structure of FIG. 6.

In short, the Examiner cannot, as a matter of law, assert that independent claim 1 and dependent claim 21 (which depends upon claim 1) are species of a common genus. On the contrary, claim 1 is clearly generic with respect to claim 21, and there are no other alternative species to claim 21 that are currently pending. The Examiner's current position appears to be nothing more than an assertion that the Examiner sent the Election Requirement on 8/11/2006. The Examiner has failed to address Applicant's arguments, as outlined above.

In view of these comments and observations, examination of claims 21 and 22 is courteously requested. This will require the Examiner to withdraw the finality of the current Office Action, as claims 21 and 22 have not been examined even though Applicant is entitled to such examination.

As noted above, Applicant is filing a Petition on this issue in parallel with this response.

Nothing in the applied prior art discloses or suggests the system defined by claim 21. In particular, nothing in the applied prior art discloses or suggests a system comprising a first array of write heads arranged in a two-dimensional matrix that define write channels for the system in a first tape direction, a second array of write heads arranged in another two-dimensional matrix, wherein the write heads in the second array of write heads define write channels for the system in a second tape direction, and an array of MR heads positioned between the first and second arrays of write heads, wherein the MR heads define read channels for the system in both the first and second tape directions. For at least this reason, and other reasons, claims 21 and 22 should be allowed.

Claim 1 and 3-12

Applicant has amended claim 1 to include the limitations formerly recited in claim 2. Therefore, this amendment raises no new issues and will not require any further search by the Examiner.

Former claim 2 was rejected under 35 U.S.C. 102(e) as being anticipated by Ozue et al. (US 2004/0021982) (hereafter "Ozue"). Applicant respectfully traverses the rejection. Ozue

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fails to disclose each and every feature of the claimed invention, as required by 35 U.S.C. 102(b), and provides no teaching that would have suggested any rational reason to include such features.

Upon entry of this amendment to incorporate the limitations of claim 2 into claim 1, claim 1 recites a system for reading and writing information to magnetic media comprising an array of write heads arranged in a two-dimensional matrix, wherein each of the write heads defines a write channel for the system as the magnetic media moves in a direction of motion relative to the array of write heads, and an array of magnetoresistive (MR) heads, wherein each of the MR heads defines a read channel for the system, and wherein each of the write heads in the two dimensional matrix corresponds to one of the MR heads of the array of MR heads such that each of the write channels corresponds to one of the read channels as the magnetic media moves in the direction of motion, wherein the array of MR heads comprises a linear array of MR heads and the array of write heads comprises a planar array of write heads.

An illustration of a system like that of claim 1 can be seen in FIG. 2 of the present application, which is reproduced below.

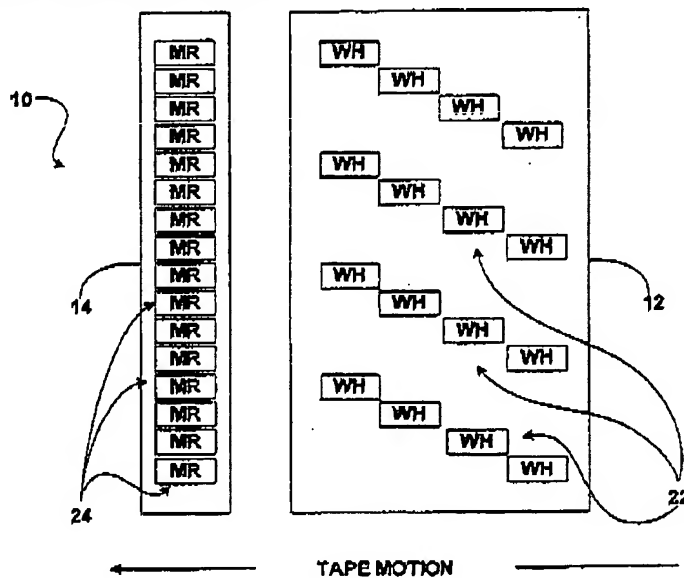
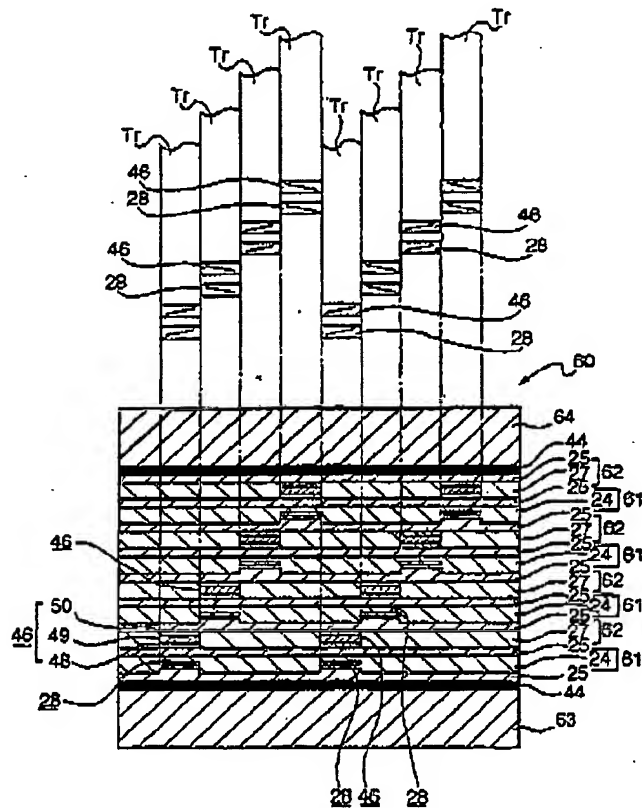


FIG. 2

As shown in FIG. 2, the array of MR heads 14 comprises a linear array of MR heads and the array of write heads 12 comprises a planar array of write heads.

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FIG. 14



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the same as the array of write heads. The array of MR heads 46 is clearly not a linear array. For this reason, amended claim 1 must be allowed over Ozue.

CONCLUSION

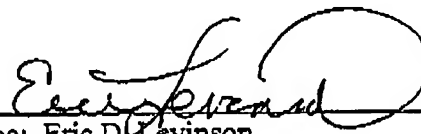
All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Applicant reserves further comment on any claims or issues not specifically addressed herein, but reserves the right to present additional arguments. Applicant does not acquiesce to any of the Examiner's rejections or interpretations of the prior art. Please charge any additional fees or credit any overpayment to deposit account number 09-0069. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

12/17/07

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